

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

BENJAMIN BALLOUT,

Plaintiff,

Case No. 20-cv-12962  
Hon. Matthew F. Leitman

v.

SMALL BUSINESS  
ASSOCIATION, *et al.*,

Defendants.

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**ORDER (1) CONSTRUING PLAINTIFF’S MOTION (ECF No. 11) AS  
OBJECTIONS TO MAGISTRATE JUDGE’S REPORT AND  
RECOMMENDATION (ECF No. 10) AND (2) DIRECTING PLAINTIFF TO  
SUPPLEMENT HIS OBJECTIONS IN WRITING**

In this action, Plaintiff Benjamin Ballout brings claims against the United States Small Business Association (the “SBA”) and several employees of the SBA. (*See* Compl., ECF No. 1.) On April 23, 2021, the assigned Magistrate Judge issued a report and recommendation in which he recommended that the Court dismiss this case without prejudice due to Ballout’s failure to properly serve any of the Defendants with the Summons and the Complaint (the “R&R”). (*See* R&R, ECF No. 10.)

On May 11, 2021, Ballot filed what he titled “Motion for Process by the Plaintiff(s).” (*See* Mot., ECF No. 11.) The Court construes Ballot’s motion as objections to the R&R. In the objections, Ballout appears to indicate that, contrary

to the Magistrate Judge's findings, he did serve the Defendants with the Summons and the Complaint. (*See id.*) And Ballot insists that the because the Defendants have not appeared in this action, the Court should enter a default against them. (*See id.*) But while Ballot appears to indicate that he served the Defendants, he has not, for each Defendant individually, specifically identified how or when the Summons and the Complaint were served, nor has he presented any evidence to support his apparent suggestion that he properly served the Defendants. The Court has reason to question whether Ballout has, in fact, served the Defendants with the Summons and the Complaint in a manner that complies with the Federal Rules of Civil Procedure.

Accordingly, by no later than **June 28, 2021**, Ballout shall supplement his objections in writing. The supplement shall be submitted in the form of a signed declaration or affidavit that is sworn under oath and under the penalty of perjury and contempt of court. In that supplement, Ballot shall identify, on a Defendant-by-Defendant basis (*i.e.*, each Defendant shall be listed separately), (1) when he served each Defendant with the Summons and the Complaint and (2) by what manner he served each Defendant with the Summons and the Complaint. In addition, Ballout shall submit with his supplement any and all additional evidence – *e.g.*, records of certified mailings, etc. – that Ballout has to support his apparent contention that he served each Defendant with the Summons and the Complaint. After the Court

receives this supplement, it will rule on Ballout's objections to the R&R. If Ballot does not comply with this order and/or if his response is insufficient to persuade the Court that he has served the Defendants with the Summons and the Complaint, the Court will adopt the recommended disposition of the R&R and dismiss this action without prejudice.

**IT IS SO ORDERED.**

s/Matthew F. Leitman

MATTHEW F. LEITMAN

UNITED STATES DISTRICT JUDGE

Dated: May 18, 2021

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on May 18, 2021, by electronic means and/or ordinary mail.

s/Holly A. Monda

Case Manager

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